

# The Flinn Report

Illinois

# Regulation

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700 Stratton Bldg., Springfield IL 62706

**Joint Committee on Administrative Rules**

Illinois General Assembly

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*Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.*

## New Regulations

### ✎ EDUCATOR CERTIFICATION

The STATE BOARD OF EDUCATION adopted amendments for "Certification" (23 Ill Adm Code 25), effective 1/1/05. A companion, but not identical, emergency rulemaking became effective 8/20/04. The rulemaking implements Public Act 93-679 by exempting out-of-State teacher candidates certified before 7/1/04 from certain basic skills test, content-area test, and standard teaching certificate requirements. Likewise, certain requirements are waived for administrative certificate renewals, standard or master teaching certificate renewals, and standard certificate applications received or processed on or after 7/1/04. Exceptions are also made for deficiency statements for out-of-State applicants that were pending on 7/1/04. Additional amendments not related to PA 93-679 broaden applicability of the short-term teacher authorization regulations to include middle grade teachers and clarify that additional coursework needed by teachers with short-term authorizations does not have to be obtained from "approved" educator preparation programs. Also, an appendix is added to specify criteria for identification of teachers as "highly qualified" in an additional teaching field for purposes

of the federal No Child Left Behind Act. Continuing professional development procedures are streamlined by replacing an applicant's plan development and plan evaluation by a local committee with the applicant's submittal of information concerning continuing professional development at the time of certification renewal. Also, persons with advanced degrees or master teaching certificates are required to complete less continuing professional development work. Master certificate-holders are authorized to teach honors or advanced placement courses in a subject for which they do not hold a specific subject-area designation. Also, criteria are specified for certification of school psychologists and school social workers who are from states that do not require certification for these positions. A number of substantive changes have been made in this rulemaking since 1<sup>st</sup> Notice. For example, a person seeking a short-term authorization to fill a vacant teaching position may provide a written assurance that he or she intends to enroll in specific courses at a named institution of higher education in the next semester. Concerning continuing professional development, relevant credits earned on or after April 1<sup>st</sup> during

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## Proposed Regulations

### ✎ ELEVATOR SAFETY

The OFFICE OF THE STATE FIRE MARSHAL proposed a new Part titled "Illinois Elevator Safety Rules" (41 Ill Adm Code 220) to authorize and enforce rules for the design, installation, construction, operation, inspection, testing, maintenance, alteration, and repair of elevators, dumbwaiters, escalators, moving sidewalks, platform lifts, stairway chairlifts, and "automated people conveyances". Home rule cities with populations over 500,000 may establish their own regulations, but local regulations must be at least as stringent as this Part. An Elevator Safety Board under OSFM is established, and various safety standards from national organizations are incorporated by reference. The rulemaking also provides for the licensing of contractors and mechanics who install or work on these various conveyances. Covered topics include definitions, safety code variances, licensure requirements and fees, license renewals, conveyance registration, installation or alteration permits and fees, and certificates of operation with related fees. Hearing procedures for violations of this Part are also specified, and an implementation schedule is listed for various regulations. Those affected by this rulemaking include designers, installers, and inspectors of the various types of conveyances listed above and building owners where the conveyances are located.

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**NEW REGULATIONS:** Rules adopted by agencies this week.

**PROPOSED REGULATIONS:** Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

**QUESTIONS/COMMENTS/RULE TEXT:** Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

# New Regulations

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the final year of a certificate's validity may be carried over and claimed in the subsequent period. Also, Appendix D, which details criteria for identifying teachers as "highly qualified", was revised to clarify criteria applicable to special education teachers, elementary teachers, and secondary grade teachers. Those affected by this rulemaking include continuing professional development providers and charter schools.

Questions/requests for copies: Dennis Williams, ISBE, 100 N. First St., Springfield IL 62777-0001, 217/782-7702, E-mail: rules@isbe.net

## ECONOMIC DEVELOPMENT

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted amendments for "Economic Development for a Growing Economy Program (EDGE)" (14 Ill Adm Code 527), effective 1/5/05, to implement Public Act 93-882, which provides that certain types of businesses with 100 or fewer employees may now qualify for credits under this program. The applicant's project must involve an investment of at least \$1 million in capital improvements to be placed in service, and it must employ at least 5 new employees within the State as a direct result of the project. Definitions are also updated in this rulemaking. Businesses that meet the eligibility criteria above and that seek credits under this program will be affected by these amendments.

## ENERGY GRANTS

DCEO also adopted amendments, effective 1/5/05, implementing Public Act 93-167 for rules titled "Administration of the Coal Grant Provisions of the Illinois Resource Development and Energy Security Act" (32 Ill Adm Code 120). The rulemaking: (1) strikes provisions pertaining to grant prequalification requests; (2) updates the names of the Department, other State offices, and programs covered under this Part; and (3) requires that an eligible business demonstrate a

revenue stream sufficient to service debt on any bonds issued supporting the grant project. The purpose of such grants is to promote development of new, coal-fired electric generating capacity in Illinois. Definitions are added or clarified, and grant application procedures are revised to require that a draft construction permit for the facility from the Illinois Environmental Protection Agency (IEPA) be included. Grant applications are required to identify all State and federal permits required for the facility's operation and must also include specific information regarding the facility's employment benefits. In addition, applicants are allowed on their grant applications to project the amount of Illinois-mined coal that will be used at the new electric generating facility and the resulting State occupation and use taxes that will be paid on such coal. This information was previously based on Illinois coal actually used and sales taxes actually paid during the 4 preceding consecutive quarters. In order to make this projection, the applicant must provide documentation of a long-term commitment to using Illinois coal through binding coal purchase agreements with suppliers. The amendments state that in addition to compliance with all federal, State, and local permitting requirements, funded projects will be subject to review by the Illinois departments of Natural Resources, Historic Preservation, and Agriculture and the IEPA. Funds will not be disbursed for land acquisition or any activity that physically impacts the project site until DCEO receives notification from these agencies that the project is in compliance with their respective requirements. Businesses seeking qualification for financial assistance for a new electric generating facility will be affected by this rulemaking.

Questions/requests for copies of the 2 DCEO rulemakings above: Jolene Clark, DCEO, 620 E. Adams, Springfield IL 62701, 217/557-1820, Fax 217/782-0038, E-mail: Jolene\_Clark @commerce.state.il.us

## NORTH POINT MARINA

The DEPARTMENT OF NATURAL RESOURCES adopted amendments for rules titled "North Point Marina" (17 Ill Adm Code 220) and "North Point Marina Vendors" (17 Ill Adm Code 230), both effective 1/10/05, to significantly update these 2 Parts that regulate activities at the State-owned and DNR-managed marina located in Winthrop Harbor on Lake Michigan. The changes in both Parts are extensive, and Part 220 amendments include general housecleaning provisions, various fee increases, fee payment time frames and options, policy changes affecting slip vacancies and cancellations, and prohibited activities in the marina. Also revised are access provisions and emergency circumstances under which a vessel may be boarded. The Part 230 rulemaking increases the annual vendor license fee from \$200 to \$300 to perform work or provide service within the marina and strikes the requirement that a vendor must agree to pay a percentage of gross sales to the Department. In addition, each vendor must provide a certificate of insurance naming the Illinois DNR as an insured. Vendor access and identification provisions are also revised. For further details regarding these 2 rulemakings, please refer to the summary of the proposed rulemakings in the 9/24/04 issue of the *Flinn Report*. Small businesses that operate at the marina will be affected by these rulemakings.

## DEER HUNTING

DNR adopted amendments for "General Hunting and Trapping on Department-Owned or -Managed Sites" (17 Ill Adm Code 510), effective 1/10/05, to allow the tracking of deer with dogs on any Department-owned or Department-managed site during hours when deer hunting is not being conducted on the site. The rulemaking also provides that only dogs that are certified by a national dog-tracking organization are allowed to track deer on the above properties. As originally proposed, the rulemaking established a

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blanket prohibition against all deer-tracking with dogs on these properties at any time. JCAR objected to that provision in an identical emergency rulemaking that appeared in the 10/15/04 *Illinois Register* because it contravened the statute that allows leashed dogs to be used to track wounded deer. In response to JCAR's objection, DNR modified this companion proposed rulemaking to allow tracking. Another change since 1<sup>st</sup> Notice corrects the Department's internet home page address to <http://dnr.state.il.us>.

Questions/requests for copies of the 3 DNR rulemakings above: Jack Price, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

## LANGUAGE ASSISTANCE SERVICES IN HEALTH FACILITIES

The DEPARTMENT OF PUBLIC HEALTH adopted a new Part titled "Language Assistance Services Code" (77 Ill Adm Code 940), effective 1/6/05, to implement Public Act 93-564, which requires hospitals and long-term care facilities to provide language assistance for limited-English-speaking, non-English-speaking, and deaf residents or patients. Previously, such assistance was provided by the health care facilities voluntarily. The rulemaking defines terms used throughout the Part, lists various means by which a facility may meet the minimum requirement, and provides qualification criteria for interpreters. An informal procedure for handling complaints against a health care facility for violating provisions of this Part is provided, and a formal procedure is specified that includes notice of violation, plan of correction, and penalties. A change since 1<sup>st</sup> Notice requires the Department to notify a health care facility if its plan of correction is approved or disapproved. If the plan is approved, the notice must include the date on which the 6-month "no violation" period begins. (If a facility violates an approved plan of correction within 6 months

after its submission, DPH may impose penalties.) Licensed hospitals and long-term care facilities are affected by this rulemaking.

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson, 5<sup>th</sup> Fl., Springfield IL 62761, 217/782-2043, E-mail: [rules@idph.state.il.us](mailto:rules@idph.state.il.us)

## HAZARDOUS MATERIALS

The DEPARTMENT OF TRANSPORTATION adopted an amendment for "Specifications for Tank Cars" (92 Ill Adm Code 179), effective 1/6/05, to broaden an incorporation by reference of federal regulations for multi-unit tank car tanks from 2 sections to an entire subpart of the federal rules in effect on 10/1/03. DOT states that this change does not impose any new requirements on the regulated industries. Those affected by this amendment include small businesses that transport hazardous materials by highway in Illinois commerce.

Questions/requests for copies: Catherine Allen, DOT, 3215 Executive Park Dr., 3<sup>rd</sup> Fl., Springfield IL 62794-9212, 217/785-1181.

DOT also adopted peremptory amendments for the following 5 rulemakings, all effective 1/6/05: "Hazardous Materials Transportation: General Information, Regulations and Definitions" (92 Ill Adm Code 171); "Hazardous Materials Table and Hazardous Materials Communications" (92 Ill Adm Code 172); "Shippers General Requirements for Shipments and Packagings" (92 Ill Adm Code 173); "Carriage by Public Highway" (92 Ill Adm Code 177); and "Specifications for Packagings" (92 Ill Adm Code 178). According to DOT, Parts 171 and 173 incorporate by reference federal regulations that delay the effective date of a 10/30/03 federal hazardous materials regulation from 1/1/05 to 6/1/05. DOT states that the delayed regulation pertains to hazardous material loading and unloading operations and storage of such material during transportation. A second federal regulation that im-

pacts how cargo containing lithium batteries and cells is packaged and marked for highway transport is incorporated by reference, also. Parts 177 and 178 add the federal provision with the delayed 6/1/05 effective date, and Part 172 adds the lithium battery regulation. Those affected by these rulemakings include transporters of hazardous materials in commerce on Illinois highways.

Questions/requests for copies: Christine Caronna-Beard, DOT, 2300 S. Dirksen Pkwy., Rm. 311, Springfield Illinois 62764, 217/782-3215.

## STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments for "Pay Plan" (80 Ill Adm Code 310), effective 1/7/05, to apply to fiscal year 2005 the existing 2004 provisions concerning pay plan implementation and effective dates; various merit compensation system-related rules; and charts showing the salary grade schedule for monthly rates, medical administrator rates, and the broad-band pay range classes. As originally proposed on 8/13/04, this rulemaking also implemented the collective bargaining agreement with the American Federation of State, County and Municipal Employees (AFSCME) for fiscal year 2005. However, because the master contract was signed on 8/19/04, such contract-related changes were removed from the proposed amendments through a correction published in the 9/10/04 issue of the *Illinois Register* and were subsequently adopted in a peremptory rulemaking in the 9/24/04 *Illinois Register* in accordance with the Illinois Administrative Procedure Act, which allows adoption of peremptory rules to effectuate a collective bargaining agreement within 30 days after the agreement is signed.

DCMS also adopted a peremptory rulemaking, effective 1/4/05, for the same Part 310 to reflect an agreement between the State and the International Brotherhood of Boiler Makers—

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Iron Shipbuilders, Blacksmiths, Forgers, and Helpers. The agreement was signed 12/6/04 and provides that boiler safety specialists on the standard pension formula

will receive a 2% monthly salary increase beginning 1/1/05.

Questions/requests for copies of the 2 DCMS rulemakings above: Dawn

DeFraties, DCMS, 503 Stratton Bldg., Springfield IL 62706, 217/524-8773, Fax 217/558-4497.

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Questions/requests for copies/comments until 3/7/05: Jim Lapping, OSFM, 1035 Stevenson Dr., Springfield IL 62703-4259, 217/785-0969.

### STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed an amendment for "Extensions of Jurisdiction" (80 Ill. Adm. Code 305) to implement a collective bargaining agreement with the American Federation of State, County, and Municipal Employees (AFSCME) whereby paralegal positions at the Capital Development Board (CDB) will be covered by the Illinois Personnel Code beginning 4/1/05. The rulemaking also strikes text that references CDB computer specialist positions currently covered by the Personnel Code.

Questions/requests for copies/comments until 3/7/05: Gina Wilson, DCMS, 720 Stratton Building, Springfield IL 62706, 217/785-1793.

### ICC MEDIATION

The ILLINOIS COMMERCE COMMISSION proposed an amendment for "Voluntary Mediation Practice" (83 Ill Adm. Code 201) to clarify that a written request for voluntary

mediation of a dispute between parties subject to ICC jurisdiction must specify the ICC docket number of any related pending formal proceeding or the case name, docket number, and forum if the issue is a matter before a civil court. Small businesses, small municipalities, and not-for-profit corporations desiring to mediate disputes through the Commission may be affected by this rulemaking.

Questions/requests for copies/comments until 3/7/05: Elizabeth Rolando, Chief Clerk, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434. Please reference docket 05-0010.

### MUNICIPAL LANDFILLS

The Pollution Control Board proposed amendments for the following 3 Parts: "Solid Waste Disposal: General Provisions" (35 Ill Adm Code 810), "Standards for New Solid Waste Landfills" (35 Ill Adm Code 811), and "Procedural Requirements for Permitted Landfills" (35 Ill Adm Code 813). Taken together, the PCB rulemakings implement federal Environmental Protection Agency (EPA) regulations pertaining to the federal Resource Conservation and Recovery Act (RCRA) that were adopted between 1/1/04 and 6/30/04. Specifically, Part 813 authorizes

a municipal solid waste landfill owner or operator to obtain a "research, development, and demonstration permit" (RD&D permit) that allows the permittee to deviate from current landfill requirements for "final cover", "run-on control", and introduction of "non-containerized" liquid waste in order for the permittee to use alternative technologies. If PCB issues an adjusted landfill standard, the landfill owner or operator may then apply to the Illinois EPA for the permit. (PCB states that such permits allow the operation of "bioreactor" landfills.) A permit is issued for a 3-year period with the possibility of 3 renewals. Part 810 adds a definition for RD&D permits, and Part 811 adds references to RD&D permits in its general landfill standards. Those affected by these 3 rulemakings include owners and operators of municipal solid waste landfills.

Questions/requests for copies/comments until 3/7/05: Dorothy M. Gunn, Clerk, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-6931 or Michael J. McCambridge, 312/814-6924, E-mail: [mccambm@ipcb.state.il.us](mailto:mccambm@ipcb.state.il.us). Please reference docket R05-1.



## **Second Notices**

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The following rulemakings were moved to second notice this week by the agencies listed below, commencing the JCAR review period. The rulemakings will be considered at JCAR's 2/17/05 meeting in Springfield.

### **DEPARTMENT OF LABOR**

"Prevailing Wage Hearing Procedures" (56 Ill Adm Code 100) proposed 10/29/04 (28 Ill Reg 13952)

### **DEPARTMENT OF NATURAL RESOURCES**

"Nuisance Wildlife Control Permits" (17 Ill Adm Code 525) proposed 11/19/04 (28 Ill Reg 14926)

## **NEW JCAR E-MAIL & WEBSITE ADDRESS**

On December 1, 2004, the Illinois General Assembly's domain name for e-mail purposes changed from legis.state.il.us to ilga.gov. Therefore, all JCAR e-mail should now be sent to [jcar@ilga.gov](mailto:jcar@ilga.gov). Also, our website on the internet changed to [www.ilga.gov/commission/jcar](http://www.ilga.gov/commission/jcar) on December 18, 2004.

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*Illinois General Assembly*

**Illinois**

# **Regulation**

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